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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Case No. 4:17-cv-02758-PJH

RAYMOND LONG, M.D., and  
BANDHA YOGA  
PUBLICATIONS, LLC,

Plaintiffs,

*versus*

TAMMY DORSET; JOHN DOE  
1-10; AND FACEBOOK, INC.,,

Defendants.

SECOND AMENDED  
COMPLAINT

Plaintiffs Raymond Long, M.D. (“Dr. Long”) and Bandha Yoga  
Publications, LCC (“Bandha LLC”) (collectively “Plaintiffs”), by and through

1 counsel, for their Second Amended Complaint against Tammy Dorset, John  
2 Doe 1 through John Doe 10 (collectively the “Dorset defendants”) and  
3 Facebook, Inc. (“Facebook”) (collectively “Defendants”), allege as follows  
4

5  
6 **JURISDICTION AND VENUE**

7 1. This court has original jurisdiction pursuant to 28 U.S.C. §§ 1332  
8 and 1338(a), and supplemental jurisdiction pursuant to 28 U.S.C. §1367, as  
9 well as pendant jurisdiction over claims based on state law.

10 2. This court has personal jurisdiction over Defendant Facebook.  
11 Facebook’s principal place of business is located in this District. Facebook’s  
12 Terms of Service requires that suits by users of its services be brought in  
13 this District.  
14

15 3. This court has personal jurisdiction of the Dorset Defendants  
16 based on the criminal acts in which they engaged.  
17

18 (a) Those acts were directed at this District and caused injury  
19 in this District.  
20

21 (b) On information and belief, Tammy Dorset and the other  
22 Dorset Defendants, either individually or through their agent, Tammy  
23 Dorset, agreed to the Facebook Terms of Service and to jurisdiction in  
24 this District.  
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1 (c) The Dorset Defendants' conduct caused injury to Plaintiffs  
2 and their intellectual property within the State of California.

3  
4 4. Venue is proper in this district pursuant to 28 U.S. §§ 1391(c)  
5 and 1400(a), in that Defendants are subject to personal jurisdiction in this  
6 District. Facebook may be found in this District. Facebook's Terms of  
7 Service specify this District as the proper forum.  
8

9  
10 **INTRADISTRICT ASSIGNMENT**

11 5. Pursuant to Civil L.R. 3-2(c), this matter is an Intellectual  
12 Property Action and is subject to district wide assignment, notwithstanding  
13 a substantial part of the events giving rise to the cause of action occurred in  
14 Alameda County and the City and County of San Francisco, which makes  
15 Oakland and/or San Francisco the proper assignment pursuant to Civil L.R.  
16 3-2(d).  
17  
18

19 **THE PARTIES**

20 6. Dr. Long is a board-certified orthopedic surgeon as well as one of  
21 the world's leading experts in the practice of yoga. He is a world-renowned  
22 author, lecturer, and blogger on the subject of yoga, particularly on the  
23 anatomical effects of various yoga poses. Illustrations prepared for him  
24 using trade secret processes are unique, identifiable to Plaintiffs,  
25 copyrighted, and recognized as authoritative throughout the world. Dr. Long  
26  
27  
28

1 resides in Panama City Beach, FL. He markets his works through his  
2 wholly owned corporation, Plaintiff Bandha LLC. Facebook is a publicly  
3 traded corporation with its principal office in the State of California.  
4

5 7. Facebook is one of the largest social networking sites in the  
6 world, and allows its more than 1 billion individual and business users to  
7 create pages, upload, download, distribute, and buy and sell a variety of  
8 audiovisual works, including works that Plaintiffs advertise and market on  
9 Facebook.  
10  
11

12 8. Tammy Dorset is the pseudonym for one or a group of computer  
13 hackers. On information and belief, the actions of Defendant Tammy Dorset  
14 were taken in conspiracy with Defendants John Does 1-10. On information  
15 and belief, the Doe Defendants are a group comprised of multiple  
16 individuals operating from different locations at different times to violate  
17 Plaintiffs' intellectual property rights and thereby cause injury to Plaintiffs;  
18 the Doe Defendants acted through multiple IP addresses at various times,  
19 apparently from different locations  
20  
21  
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23

## 24 **INTRODUCTION AND THE FACTUAL BACKGROUND**

25 9. This case arises out of the criminal computer hacking,  
26 intentional copyright infringement by the Dorset Defendants who hacked  
27  
28

1 into a Facebook Business page owned by and controlled by the Dr Long,  
2 locked Dr. Long out of the administrative control of that page and over Dr.  
3 Long's strenuous objections posted Dr. Long's copyrighted material on that  
4 page with embedded links to malicious computer software and to pages  
5 displaying pornographic images.  
6  
7

8 10. Under Article I, Section 8, clause 8, of the Constitution and the  
9 Copyright Act enacted by Congress thereunder, Dr. Long, like all owners  
10 has the *exclusive right* to control the distribution of his copyrighted  
11 material. Dr. Long opposed the distribution of his copyrighted material by  
12 Dorset. Since the copyrighted material was displayed on the Facebook site,  
13 Facebook had the obligation under law to remove material infringing on Dr.  
14 Long's copyrights in order for Facebook to avoid liability for copyright  
15 infringement.  
16  
17  
18

19 11. The competing interests of copyright owners and  
20 publishers/distributors of copyrighted material faced new challenges posed  
21 by the internet. Congress sought to address those challenges by passing the  
22 Digital Millenium Copyright Act of \_1998\_\_\_\_\_ (the "DMCA"). Copyright  
23 owners, faced the potential for infringing materials to become almost  
24 instantly distributed throughout the world. As the Senate Report on the  
25 DMCA noted, "[d]ue to the ease with which digital works can be copied and  
26  
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28

1 distributed worldwide virtually instantaneously, copyright owners will  
2 hesitate to make their works readily available on the Internet without  
3 reasonable assurance that they will be protected against massive piracy.” S.  
4 Rep. No. 105-190, at 8.  
5

6  
7 12. Facebook and other internet service providers (“ISPs”), like  
8 Facebook, do have control over what material is posted on their websites.  
9 But they faced the challenge of policing infringing material that might be  
10 posted on their web sites by third parties over whom Facebook had no  
11 control. The major protection from copyright infringement liability the  
12 DMCA provided to internet service providers was to make clear that there is  
13 *no duty to become aware of infringing material on its web site*. However,  
14 once an internet service provider *becomes actually aware of infringing*  
15 *material on its platform*, it may be liable under long established law for  
16 direct, vicarious or contributory infringement.  
17  
18  
19  
20

21 13. Accordingly, the DMCA established a “safe harbor” for ISPs that  
22 protected them from liability under certain circumstances. 17 U.S.C. § 512  
23 limits the liability of service providers, such as Facebook, for copyright  
24 infringement when the following conditions are met: (1) The provider does  
25 not have actual knowledge of the infringing activity; (2) if the provider has  
26 the right and ability to control the infringing activity, it must not receive a  
27  
28

1 financial benefit directly attributable to the infringing activity; and (3) upon  
2 receiving proper notification of the claimed infringement, the provider must  
3 expeditiously take down or block access to the material.  
4

5 14. The statute also establishes procedures for proper notification.  
6 Under the notice and takedown procedure, a copyright owner submits a  
7 notification to the service provider's designated agent, under penalty of  
8 perjury, including a list of specified elements. *If, upon receiving a proper*  
9 *notification, the service provider does not expeditiously* remove or block  
10 access to the material identified in the notification, the provider may be  
11 monetarily liable for the infringement. The statute encourages the ISP to  
12 err on the side of removing material. The ISP is shielded from any liability  
13 for improperly removing material.  
14

15 15. As we show further below, Facebook did not act expeditiously in  
16 taking down the infringing material posted by the Dorset Defendants on  
17 Facebook's web site. Accordingly, Facebook is liable to Dr. Long for  
18 damages under the various theories of liability identified below.  
19

20  
21  
22  
23  
24 **Dr. Long's Creation and Use of His Valuable**  
25 **Copyrighted Materials**

26 16. Plaintiff Dr. Long is an internationally renowned expert on yoga  
27 and in particular the anatomical purposes and effects of yoga poses. He is  
28

1 one of the bestselling authors of yoga books, a frequent author of articles for  
2 yoga publications, a producer of video training materials and a frequent  
3 lecturer on yoga topics.  
4

5 17. Dr. Long has developed his yoga expertise and reputation over  
6 the course of more than 20 years.  
7

8 18. Dr. Long owns the copyrights to the internationally known brand  
9 Bandha Yoga directly or through Bandha LLC, which holds exclusive rights  
10 to its related publications, including books (in print and e-books), articles,  
11 pamphlets, videos, pictures, animations, and other interactive media.  
12

13 19. The infringing material in this case is in the form of illustrations  
14 and texts that come primarily from some of his copyrighted books:  
15

16 (a) *The Key Poses of Yoga: Scientific Keys, Volume II* (U.S.

17 Copyright Registration No. TX 7-473-344, effective January  
18 11, 2012);  
19

20 (b) *Yoga Mat Companion 1: Anatomy for Vinyasa Flow and*  
21

22 *Standing Poses* (U.S. Copyright Registration No. TX 7-474-  
23 337, effective January 11, 2012);  
24

25 (c) *Yoga Mat Companion 2: Anatomy for Hip Openers and*  
26

27 *Forward Bends* (U.S. Copyright Registration No. TX 7-473-  
28 350, effective January 11, 2012);



1 (d) *Yoga Mat Companion 3: Anatomy for Backbends and Twists*

2 (U.S. Copyright Registration No. TX 7-474-356, effective

3 January 11, 2012); and

4 (e) *Yoga Mat Companion 4: Anatomy for Arm Balances and*

5 *Inversions* (U.S. Copyright Registration No. TX 7-474-352,

6 effective January 11, 2012).

7  
8  
9 20. Among the Plaintiffs' copyrights and infringed intellectual  
10 property are anatomical illustrations showing the muscular/skeletal effect of  
11 various yoga poses, referred to as the "Scientific Keys to Unlock the Practice  
12 of Yoga" (the "Scientific Keys Illustrations").  
13

14  
15 21. Some of the Scientific Keys Illustrations are digitally rendered,  
16 while others are hand-drawn. They are produced through trade secret  
17 means to ensure anatomical accuracy generally unobtainable through other  
18 means; the resulting images are unique, highly recognizable, sought after,  
19 and readily identifiable as the product of Dr. Long and his businesses.  
20

21  
22 22. All of the Scientific Keys Illustrations are produced exclusively  
23 by or for Dr. Long under his direction. The digital Scientific Keys  
24 Illustrations are produced in collaboration with an employee. The  
25 employee—assistant's contract with Dr. Long grants Dr. Long exclusive  
26 intellectual property rights to all of the aforesaid collaborative illustrations.  
27  
28

1           23. Dr. Long carefully manages the use of the Scientific Keys  
2 Illustrations to maximize their value for marketing his revenue-producing  
3 business.  
4

5           24. Among the Plaintiffs' copyrighted and infringed intellectual  
6 property is text, of which Dr. Long is the sole author and copyright holder.  
7

8           25. Dr. Long markets his intellectual property with a carefully  
9 designed and curated internet presence. In May of 2015, the Bandha Yoga  
10 page had approximately 400,000 followers on Facebook.  
11

12           26. Dr. Long's blog, Daily Bandha, has over seven million page  
13 views, and his YouTube videos have been viewed approximately 800,000  
14 times.  
15

16           27. As with all owners of the copyrights, Plaintiffs possess the  
17 exclusive right to reproduce such copyrighted works in digital or print  
18 formats, to distribute such copyrighted works to the public by means of  
19 digital or other transmission, and to license those rights over the internet.  
20  
21

22           28. As part of Plaintiffs' marketing plan, they established a business  
23 page on Facebook called "Bandha Yoga – The Scientific Keys" (the "Bandha  
24 Yoga page").  
25

26           29. Although the establishment of a business page is free, Facebook  
27 generates substantial revenue each year by encouraging businesses to  
28

1 establish a business page and then to advertise on Facebook to drive users  
2 to that page.

3  
4 30. Business page users may use their business page to advertise  
5 their products, upload and maintain information, and disseminate original  
6 content to users drawn to their business page.

7  
8 31. Facebook users who engage with Facebook business pages may  
9 view content uploaded by the business page administrator(s), interact with  
10 the business by “liking”, commenting, and sharing the business page’s posts,  
11 providing their own opinions and reviews, and sharing and disseminating  
12 opinions or advertising about such pages or products to their own network of  
13 Facebook connections.

14  
15 32. Business pages, including the Bandha Yoga page, have  
16 password-protected administrative access.

17  
18 33. Facebook makes special analytical tools available so that  
19 business page users can see how many times a post has been “liked,” or how  
20 many times the post or page has been viewed (called “impressions”), or how  
21 many different individuals have viewed a post (called “reach”). Facebook  
22 business page users then can advertise through Facebook and can see  
23 analytics of the number of individuals who saw a post as a result of the  
24 advertisement (called “paid reach”).  
25  
26  
27  
28

1           34. Plaintiffs paid Facebook tens of thousands of dollars to advertise  
2 the Bandha Yoga Page and to otherwise use Facebook's services to expand  
3 the Bandha Yoga brand. On information and belief, the users drawn to  
4 Facebook by the Bandha Yoga page provide Facebook with the ability to  
5 charge higher advertising rates to its advertisers.  
6  
7

8           35. Paid Facebook business pages present unique risks of  
9 misappropriation of copyrighted materials and other misuse of data when  
10 those pages are hacked and the hackers assume administrative control of  
11 those pages.  
12  
13

14           36. Facebook's Terms of Service, Section 1, entitled "Our Services,"  
15 states that one of their services is to "[c]ombat harmful conduct and protect  
16 and support our community: We employ dedicated teams around the world  
17 and develop advanced technical systems to detect misuse of our Products,  
18 harmful conduct towards [sic] others, and situations where we may be able to  
19 help support or protect our community. If we learn of content or conduct like  
20 this, we will take appropriate action – for example, offering help, removing  
21 content, blocking access to certain features, disabling an account, or  
22 contacting law enforcement. We share data with other Facebook Companies  
23 when we detect misuse or harmful conduct by someone using one of our  
24 Products."  
25  
26  
27  
28

1           37. Facebook did not take appropriate precautions to prevent or  
2           curtail the misuse that occurred in this case and led to Plaintiffs' damages.  
3

4           **The Hacking of the Bandha Yoga Page by the Dorset Defendants**  
5

6           38. The Dorset Defendants are computer hackers operating through  
7           fictitious addresses.  
8

9           39. Their criminal acts were accomplished by their unauthorized  
10          hijacking and unlawful control of the Bandha Yoga page, which they used to  
11          engage in the intentional, repeated, and unlawful misuse of Plaintiffs'  
12          copyright-protected intellectual property, including the Scientific Key  
13          Illustrations and text.  
14

15          40. When a user clicked on the copyrighted material, they would be  
16          redirected to a website that closely resembled Dr. Long's blog (created by  
17          further infringing his copyrighted materials) except that its margins were  
18          littered with pornographic advertisements; malicious malware would be  
19          installed on the user's device, or if they had certain antivirus protections,  
20          they would receive a warning that the website was attempting to install  
21          such malware.  
22

23          41. Each Dorset Defendant acted as a primary violator of the  
24          statutes in question and a primary tortfeasor in committing the torts in  
25  
26  
27  
28

1 question; alternatively, each Dorset Defendant acted in agreement and  
2 conspiracy with the primary violators and/or tortfeasors.  
3

4 42. On or about the Sunday of the Memorial Day Weekend, May 24,  
5 2015, the Bandha Yoga page was accessed by an unauthorized user by the  
6 pseudonym Tammy Dorset; on information and belief, the actions of  
7 Defendants Tammy Dorset were taken in conspiracy with Defendants John  
8 Does 1-10.  
9  
10

11 43. Tammy Dorset hacked the Bandha Yoga page and changed the  
12 administrative passwords and established himself/herself as the page  
13 administrator. Tammy Dorset therefore prevented Dr. Long and his  
14 employees from accessing and controlling the Bandha Yoga page.  
15  
16

17 44. On information and belief, Tammy Dorset was able to hack and  
18 control the Bandha Yoga page only because of an internal security lapse at  
19 Facebook.  
20

21 **Dr. Long Notifies Facebook of the Dorset Defendants Posting of Material**  
22 **Infringing on Dr. Long's Copyright and Demands That Those Materials be**  
23 **Taken Down.**

24 45. On May 24, 2015, Dr. Long notified Facebook through the  
25 Facebook online reporting form and a series of emails, using the email  
26 address to which the Bandha Yoga page was registered  
27 (rayalongmd@yahoo.com), that: (1) Dr. Long is/was the rightful owner of the  
28

1 Bandha Yoga page, (2) that the Bandha Yoga page had been hacked, and (3)  
2 that copyright-infringing materials were being posted on the Bandha Yoga  
3 page by an unauthorized hacker. Dr. Long requested information from  
4 Facebook on how to proceed.  
5

6  
7 46. On information and belief, a nonhuman robot responded on  
8 behalf of Facebook the same day, indicating in boilerplate language that  
9 Facebook had received his emails, was investigating the incident, and would  
10 contact Tammy Dorset.  
11

12 47. Facebook also instructed Dr. Long to lodge his infringement  
13 complaints at an email address established by Facebook to allow owners of  
14 intellectual property to inform Facebook of copyright infringement:  
15 [ip@fb.com](mailto:ip@fb.com). Following a link on that page, Dr. Long went to that page and  
16 filled out a form (the “IP Form”) advising Facebook of the infringement, and  
17 further advising them that his complaint should be viewed as a “take down  
18 notice” under Section 512 of the DMCA. The form did not have a place to  
19 identify which of the various sub-sections of Section 512 was sought to be  
20 invoked. On information and belief, Facebook treated all such notices as  
21 potentially effective without that information. As pointed further below,  
22 Dr. Long repeatedly filled out multiple Facebook IP Forms and received  
23 confirmations of filings in each instance.  
24  
25  
26  
27  
28

1           48. Multiple times on Memorial Day, Monday, May 25, 2015, Dr.  
2 Long notified Facebook via ip@fb.com and through Facebook's online  
3 reporting forms that the Bandha Yoga page had been hacked and that the  
4 unauthorized user was continuing to publicly disseminate Plaintiffs'  
5 copyrighted material.  
6

7  
8           49. The subject line of the emails Dr. Long sent on May 25, 2015,  
9 was "copyright infringement"; the body of the email stated, "[t]his letter is  
10 official notification under Section 512(c) of the Digital Millennium Copyright  
11 Act (the "DMCA"), and I seek removal of the aforementioned infringing  
12 materials from your servers."  
13  
14

15           50. The copyrighted materials appeared on Facebook in the form of  
16 links containing copyrighted illustrations and written text which purported  
17 to direct the user to Dr. Long's Bandha Yoga blog. Tammy Dorset placed  
18 these copyrighted materials on Dr. Long's business page in order to mislead  
19 visitors. The images linked users to a site that installed malware on a  
20 user's computer.  
21  
22

23           51. Multiple Facebook users commented on the Bandha Yoga page  
24 and on the infringing posts, warning other users that the Bandha Yoga page  
25 had been hacked, that the person in charge of the page was not the Bandha  
26 Yoga page's authorized administrator, and that clicking on the posted  
27  
28



1 images/text would result in installation of malicious malware. Tammy  
2 Dorset swiftly deleted all of these comments as they were posted.  
3

4 52. Dr. Long communicated with Facebook on May 25, 2015 using  
5 the email account that also serves as the email account of record for the  
6 Bandha Yoga page. In his communications, Dr. Long provided proof that he  
7 owned the copyrighted materials and the page, together with a notarized  
8 copy of his United States passport to prove that the notices were being sent  
9 by him.  
10  
11

12 53. Dr. Long's notices to Facebook on May 25, 2015 and afterward  
13 fully complied, or, in the alternative substantially complied, with the  
14 requirements for a takedown notice under the DMCA.  
15  
16

17 54. On Memorial Day, May 25, 2015 at 12:28 a.m., Facebook  
18 responded to Dr. Long with a message stating: "We reviewed the profile you  
19 reported pretending to be you and found that it doesn't violate our  
20 Community Standards."  
21

22 55. The most significant fact established by that message is the  
23 precise time at which Facebook had "reviewed" Dr. Long's DCMA take down  
24 notices. By acknowledging receipt of his communications, Facebook  
25 acknowledged it was aware of the contents of Dr. Long's DMCA take down  
26 notices and his easily verified description of the hacking by the Dorset  
27  
28

1 Defendants and their takeover of administrative control of the Bandha Yoga  
2 Facebook page.  
3

4 56. Additionally, it is indisputable that the Dorset Defendants  
5 conduct did violate Facebook's Terms of Service. Facebook's Terms of  
6 Service ("TOS") contain specific prohibitions including prohibitions on  
7 a) hosting content or taking any action on Facebook that infringes or violates  
8 someone else's right or otherwise violates the law ( TOS §5.1); b) accessing  
9 accounts belonging to others (TOS §3.4); c) using Facebook to do anything  
10 unlawful, misleading, malicious, or discriminatory (TOS §3.9); d) providing  
11 false information to Facebook or creating an account for anyone other than  
12 oneself without permission (TOS §4.1); and c) posting links to malware (TOS  
13 §3.4).60. Facebook's conclusion that the account did not violate its own  
14 Community Standards was , not explained and is inexplicable.  
15  
16  
17  
18

19 57. Facebook had actual knowledge from Dr. Long that the Bandha  
20 Yoga page had been hacked, that he had been impermissibly removed as  
21 administrator, and that his intellectual property was being infringed.  
22  
23

24 **FACEBOOK COULD HAVE IDENTIFIED AND TAKEN DOWN ALL**  
25 **INFRINGING MATERIAL ON MAY 25, 2015.**  
26  
27  
28

1           58. On information and belief, Facebook's computers responsible for  
2 identifying and removing copyright infringing material operate 7 days a  
3 week, 24 hours a day.  
4

5           59. On information and belief, Facebook could have and should have  
6 taken down the material infringing Dr. Long's copyrights within a few hours  
7 of 12:28 a.m. May 25, 2015, or at the very latest the first thing at the start of  
8 Facebook's business day on May 25, 2015. The information that Plaintiffs  
9 have to support that allegation include:  
10

11           a. On information and belief, Facebook was easily and almost  
12 instantly able to identify all of the infringing material posted by the Dorset  
13 Defendants. Facebook was aware from Dr. Long's DMCA notices that  
14 everything the Dorset Defendants posted on Dr. Long's Bandha Yoga  
15 Facebook page was copyrighted by Dr. Long and all that material infringed  
16 on Dr. Long's copyrights. Unknown to Dr. Long, but known to Facebook,  
17 Facebook's computer system kept track of all of the material posted on one  
18 of their pages. Indeed, software that allows identification of "new" material  
19 posted onto a web site after a specific date is commonly available and used  
20 by web site aggregators to "scrape" "new" materials from web sites and post  
21 those new materials on the aggregator's web site.  
22  
23  
24  
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1           b. Therefore, on information and belief Facebook was able to use  
2 their programs to identify all of the materials posted to the Bandha Yoga  
3 Facebook page after the moment the Dorset Defendants assumed  
4 administrative control of the Bandha Yoga Facebook page.  
5

6           c. On information and belief, Facebook was easily and almost  
7 instantly able to remove all of the infringing material posted by the Dorset  
8 Defendants and effectively “roll back” the contents of the site to the  
9 condition it was in immediately prior to the assumption of administrative  
10 control by the Dorset Defendants. That allegation is supported by the fact  
11 that on June 2, 2015, Facebook, or nine (9) days after receiving the DMCA  
12 take down notice and information that the hackers had used FB to engage in  
13 copyright infringement, removed Tammy Dorset as the administrator of the  
14 Bandha Yoga page, and effectively instantly removed all posts posted by  
15 Tammy Dorset, which also removed all of the infringing material that had  
16 been posted to the Bandha Yoga page. Once Dr. Long was re-installed in  
17 administrative control, and the Dorset posted content had been removed,  
18 any remaining material on the Bandha Yoga Facebook page remained there  
19 with Dr. Long’s consent.  
20  
21

22           d. On information and belief, there was no technological reason nor  
23 any manpower limitation that interfered with the ability of Facebook to take  
24  
25  
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28

1 on May 25, 2015, the same actions it took over a week later on June 2, 2015.  
2  
3 The only reason that Facebook did not act sooner is because Facebook acting  
4 through its computerized algorithms intentionally chose not to identify Dr.  
5 Long's complaints as a "take down" notice which by law required  
6 "expeditious" action, and instead treated the complaints as a "page  
7 administration" dispute which did not require "expeditious" action.  
8

9  
10 e. In addition, even if, contrary to fact, Facebook did not have the  
11 ability to roll back the Bandha Yoga Facebook page, with each of his DCMA  
12 notices, Dr. Long had specifically identified the infringing images and  
13 supplied a link to his blog showing the "source" of the improperly copied  
14 infringing material. Facebook did not require any human review of the  
15 pictures and text on the Bandha Yoga Facebook page to identify infringing  
16 materials. Neural network and Artificial intelligence software exists that  
17 allow computers to identify images and text and to determine potential  
18 infringement. See, [https://www.cashmanip.com/neural-network-image-](https://www.cashmanip.com/neural-network-image-copyright)  
19 [copyright](https://www.cashmanip.com/neural-network-image-copyright) (last viewed 6/29/2021). On information belief on May 25, 2015  
20 Facebook had and used similar software to allow computer identification of  
21 infringing images or text. The use of that software would have allowed  
22 identification and removal on May 25, 2015, of the images and text that the  
23 Dorset Defendants posted on the Bandha Yoga Facebook page.  
24  
25  
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28

1 f. Reported cases, other publicly reported information, and Dr.  
2 Long's personal experiences show that other ISPs routinely remove  
3 infringing materials within hours, and certainly less than 24 hours after  
4 infringement.  
5

6 g. On information and belief, had Facebook chosen to remove the  
7 material infringing Dr. Long's copyrights on May 25, 2015, it easily could  
8 have done so.  
9

10  
11 **Dr. Long's Repeated Attempts to Have Facebook Remove**  
12 **Infringing Materials Over the Next Eight Days.**

13 60. On May 25, 2015, Dr. Long sent additional DMCA takedown  
14 notices at 12:33 a.m. and 9:36 p.m.  
15

16 61. Facebook, through an apparent automated responder, provided  
17 Dr. Long with a form to report intellectual property infringement. Dr. Long  
18 completed and submitted form on the same day. However, Facebook  
19 responded to Dr. Long by stating that it was a "page admin issue" and that  
20 Facebook was "unable to assist [him] with [his] request from this contact  
21 channel."  
22

23  
24 62. Facebook's automated responder was apparently unable to  
25 recognize that the page administration issue and copyright infringement  
26 issue were inextricably intertwined: even if existing infringing material  
27  
28

1 were removed from the Bandha Yoga page, Tammy Dorset would continue  
2 to post new infringing material within the following hours as long as  
3 Tammy Dorset retained control of the page.  
4

5 63. Tammy Dorset posted new infringing material repeatedly  
6 throughout the nine (9) day time period (May 24, 2015 to June 2, 2015) that  
7 he/she/they controlled the Bandha Yoga page.  
8

9 64. A small sample of the Dr. Long's copyrighted material that was  
10 infringed can be found at the following URLs to Dr. Long's blog:  
11

12 (a) [http://www.dailybandha.com/2011/07/balancing-freedom-and-](http://www.dailybandha.com/2011/07/balancing-freedom-and-restraint-in-yoga.html)  
13 [restraint-in-yoga.html](http://www.dailybandha.com/2011/07/balancing-freedom-and-restraint-in-yoga.html)  
14

15 (b) [http://www.dailybandha.com/2011/07/using-tfl-to-refine-](http://www.dailybandha.com/2011/07/using-tfl-to-refine-utthita.html)  
16 [utthita.html](http://www.dailybandha.com/2011/07/using-tfl-to-refine-utthita.html)  
17

18 (c) [http://www.dailybandha.com/2011/05/shoulder-kinematics-in-](http://www.dailybandha.com/2011/05/shoulder-kinematics-in-yoga-part-ii.html)  
19 [yoga-part-ii.html](http://www.dailybandha.com/2011/05/shoulder-kinematics-in-yoga-part-ii.html)  
20

21 (d) [http://www.dailybandha.com/2011/03/how-to-use-adductor-](http://www.dailybandha.com/2011/03/how-to-use-adductor-muscles-to-refine.html)  
22 [muscles-to-refine.html](http://www.dailybandha.com/2011/03/how-to-use-adductor-muscles-to-refine.html)  
23

24 (e) [http://www.dailybandha.com/2011/04/shoulder-kinematics-in-](http://www.dailybandha.com/2011/04/shoulder-kinematics-in-yoga.html)  
25 [yoga.html](http://www.dailybandha.com/2011/04/shoulder-kinematics-in-yoga.html)  
26

27 65. Despite this ongoing and continuous conduct, and despite Dr.  
28 Long's notifications, over the course of nine (9) days Facebook failed to

1 expeditiously remove or block access to the infringing material. Facebook  
2 also failed to take reasonable action to terminate Tammy Dorset's control of  
3 the Bandha Yoga page.  
4

5 **Dr. Long's Subsequent Notices to Facebook Eventually Lead to the Removal**  
6 **of Tammy Dorset as Page Administrator and Simultaneously to the**  
7 **Removal of the Infringing Material**

8 66. Facebook did not remove the infringing material after being  
9 made aware of the infringements by Dr. Long's DMCA-compliant notices;  
10 instead, the eventual removal of Tammy Dorset as page administrator  
11 removed the infringing material from the page itself.  
12  
13

14 67. On May 26, 2015, the infringing material still appeared on the  
15 Bandha Yoga page and Tammy Dorset was still posting new infringing  
16 material, which would direct users to installation of malicious malware,  
17 almost hourly.  
18

19 68. On May 26, 2015, Dr. Long sent Facebook several additional  
20 DMCA takedown notices which stated that copyright-protected material was  
21 still being displayed and distributed on the hacked Bandha Yoga page.  
22  
23

24 69. On May 26, 2015, Facebook's automated responder replied to Dr.  
25 Long, indicating that it believed that Dr. Long's copyright complaint was  
26 actually a page administration issue, and claimed to have forwarded his  
27 message to their page administration team. Facebook's automated  
28



1 responder therefore miscategorized Dr. Long's copyright issue as a page  
2 administration issue.  
3

4 70. Later in the day on May 26, 2015, Facebook responded with two  
5 messages (the "Evening May 26, 2015 messages") acknowledging that Dr.  
6 Long's previous messages concerned both intellectual property issues and  
7 page administration issues; Facebook asked which issue Dr. Long wanted to  
8 address first.  
9  
10

11 71. One Evening May 26, 2015 message was signed "Flo" and the  
12 other was signed "Damian."  
13

14 72. On information and belief, neither a person named Flo nor a  
15 person named Damian personally reviewed Dr. Long's notices; those  
16 messages were generated and sent by Facebook's automated responders.  
17

18 73. If Facebook treated Dr. Long's infringement complaint as a  
19 matter requiring "expeditious" action, which on information and belief it did  
20 not, if not done sooner (as it should have been), on May 26 Facebook could  
21 have and would have taken down all posts on the Bandha Yoga Facebook  
22 page posted by the Dorset Defendants."  
23  
24

25 74. On Tuesday, May 27, 2015 at 8:11 a.m., Dr. Long responded to  
26 Flo with a detailed explanation of the problem, and again sent DMCA  
27 takedown notices demanding that Facebook remove the infringing material,  
28

underscoring the need for prompt action, reiterating that the hacker was linking Facebook posts containing Plaintiffs' copyrighted images and texts to destructive malware, and requesting that Facebook involve law enforcement.

75. Facebook still did not remove the infringing material. If Facebook treated Dr. Long's infringement complaint as a matter requiring "expeditious" action, which on information and belief it did not, if not done sooner (as it should have been), on May 26 Facebook could have and would have taken down all posts on the Bandha Yoga Facebook page posted by the Dorset Defendants."

76. Because the Evening May 26, 2015 messages had been signed with human names ("Flo" and "Damian"), Dr. Long mistakenly but reasonably thought that his communications were being addressed by humans, and he became increasingly frustrated that Facebook did not appear to understand his messages.

77. On Tuesday, May 27, 2015 at 9:52 a.m., Dr. Long sent another DMCA takedown notice to the general Facebook intellectual property address, copying "Flo" and "Damian" and "Wyatt" on the email.

78. On May 27, 2015 at 1:39 p.m., a message from Facebook, signed by "Lulu", inquired how Tammy Dorset got access to the page, to which Dr.

1 Long responded that he did not know Tammy Dorset and sent a notarized  
2 declaration that he was the owner of the Bandha Yoga page. Both “Lulu”  
3 and “Flo” then ceased communicating with Dr. Long, although Dr. Long  
4 copied them on all of his subsequent emails.  
5

6  
7 79. Although it had proper DMCA take down information for over  
8 three (3) “internet business days,” on information and belief, Facebook made  
9 no efforts to remove, nor stop the continued posting of, the infringing  
10 material.  
11

12 80. If Facebook treated Dr. Long’s infringement complaint as a  
13 matter requiring “expeditious” action, which on information and belief it did  
14 not, if not done sooner (as it should have been), on May 27 Facebook could  
15 have and would have taken down all posts on the Bandha Yoga Facebook  
16 page posted by the Dorset Defendants.”  
17  
18

19 81. On May 28, 2015, Dr. Long sent additional DMCA notices to  
20 Facebook by its online reporting form, email and fax. “If Facebook treated  
21 Dr. Long’s infringement complaint as a matter requiring “expeditious”  
22 action, which on information and belief it did not, if not done sooner (as it  
23 should have been), on May 28 Facebook could have and would have taken  
24 down all posts on the Bandha Yoga Facebook page posted by the Dorset  
25 Defendants.”  
26  
27  
28

1           82. On May 29, 2015, or five (5) “internet business days” after  
2 Facebook received proper DMCA take down notices, the Bandha Yoga page  
3 remained under Tammy Dorset’s control and he/she/they continued the  
4 infringing activities by posting new infringing material on an hourly basis.  
5

6  
7           83. Rather, on May 29, 2015, Facebook replied to Dr. Long’s  
8 continued takedown notices with yet another series of emails.  
9

10           84. “Damian,” who appeared to be an automated responder,  
11 responded in the same boilerplate manner that “Flo” had responded days  
12 earlier, indicating that despite receiving multiple DMCA takedown notices  
13 from Dr. Long, Facebook still erroneously believed that Dr. Long was  
14 attempting to make a page administration claim, and that Facebook could  
15 not act on the infringement claim if Dr. Long wanted to complain about the  
16 hacking of the Bandha Yoga page.  
17

18  
19           85. On May 29, 2015, Dr. Long responded to “Damian,” stating: “I’m  
20 definitely making an intellectual property claim. That is why I have sent  
21 multiple DMCA notices.”  
22

23  
24           86. Dr. Long also repeated that the hacker was using Plaintiffs’  
25 copyrighted images and text to entice his business contacts and prospective  
26 business contacts to click on the links, which would then redirect the user to  
27 installation of harmful malware.  
28

1           87. If Facebook treated Dr. Long’s infringement complaint as a  
2 matter requiring “expeditious” action, which on information and belief it did  
3 not, if not done sooner (as it should have been), on May 29 Facebook could  
4 have and would have taken down all posts on the Bandha Yoga Facebook  
5 page posted by the Dorset Defendants.”  
6  
7

8           88. On May 30, 2015, or six (6) “internet business days” after the  
9 initial and fully proper DMCA take-down notices, Dr. Long provided still  
10 more DMCA notices to Facebook. “If Facebook treated Dr. Long’s  
11 infringement complaint as a matter requiring “expeditious” action, which on  
12 information and belief it did not, if not done sooner (as it should have been)  
13 on May 30 Facebook could have and would have taken down all posts on the  
14 Bandha Yoga Facebook page posted by the Dorset Defendants.”  
15  
16  
17

18           89. On June 1, 2015, or seven (7) “internet business days after the  
19 initial DMCA take-down notices, Facebook responded that it was seeking  
20 further details and requested that Dr. Long resubmit his previous DMCA  
21 notices, which included links to the infringing material, which Dr. Long had  
22 done on his previous DMCA notices. “If Facebook treated Dr. Long’s  
23 infringement complaint as a matter requiring “expeditious” action, which on  
24 information and belief it did not, if not done sooner (as it should have been)  
25  
26  
27  
28

1 on June 1 Facebook could have and would have taken down all posts on the  
2 Bandha Yoga Facebook page posted by the Dorset Defendants.”  
3

4 90. On June 2, 2015, eight (8) “internet business” days after the  
5 hacking first occurred, Facebook removed Tammy Dorset as the  
6 administrator of the Bandha Yoga page, and removed all posts posted by  
7 Tammy Dorset, which also removed all of the infringing material that had  
8 been posted to the Bandha Yoga page over the previous eight days.  
9  
10

11 91. The infringing material was removed eight (8) “internet business  
12 days” after Dr. Long started issuing his series of takedown notices.  
13

14 92. On information and belief, that action was taken based on  
15 Facebook’s procedures for dealing with page administration complaints, and  
16 not because of reported copyright infringement. .  
17

18 93. Facebook also failed to timely restore Dr. Long’s administrative  
19 control over the Bandha Yoga page, which would have allowed Dr. Long to  
20 promptly remove the offending content himself.  
21

22 94. During the period where the Dorset Defendants controlled the  
23 Bandha Yoga page, over 3.5 million existing and/or prospective clients of Dr.  
24 Long and/or Bandha Yoga accessed the improperly posted infringing  
25 materials and were exposed to malware, or, if their computer was protected  
26  
27  
28

1 by antivirus software, to warnings that the page was attempting to damage  
2 their device with malware.  
3

4 95. The hacking by the Dorset Defendants and Facebook's failure to  
5 act expeditiously to return control of the Bandha Yoga page to Dr. Long and  
6 to remove the infringing materials, severely undermined Plaintiffs'  
7 relationships with existing and prospective customers.  
8

9  
10 **Facebook's Wrongful Handling of Plaintiffs' Copyright Infringement Notices**

11 96. At all relevant times, Facebook had actual knowledge that  
12 Tammy Dorset had displaced Dr. Long as the Bandha Yoga page  
13 administrator without his authorization and in violation of Facebook's  
14 Terms of Service.  
15  
16

17 97. At all relevant times, Facebook had actual knowledge that the  
18 Bandha Yoga page had been established by Dr. Long and administered by  
19 Dr. Long.  
20

21 98. At all relevant times, Facebook was engaged in a transactional  
22 business relationship with Plaintiffs, by virtue of Plaintiffs paying Facebook  
23 in exchange for Facebook's targeted promotion and advertising of the  
24 Bandha Yoga page to Facebook users.  
25  
26  
27  
28

1           99. This transactional business relationship imbues Facebook with a  
2 duty of care with respect to business pages, to maintain adequate internal  
3 cyber security systems and mechanisms to prevent unauthorized access and  
4 copyright infringements, or, alternatively, to expeditiously stop  
5 unauthorized access and restore proper page administration, and to  
6 expeditiously remove copyright-infringing material.  
7

8  
9           100. Facebook breached its aforesaid duty of care to Plaintiffs.  
10

11           101. Facebook failed to maintain adequate internal cyber security  
12 systems and mechanisms to prevent unauthorized access and copyright  
13 infringements, in that a security breach at Facebook directly and  
14 proximately caused the Dorset Defendants to gain unauthorized access to  
15 the Bandha Yoga page and to post dozens of copyright-infringing images and  
16 texts.  
17

18  
19           102. Facebook failed to expeditiously stop the Dorset Defendants'  
20 unauthorized access and restore proper page administration, in that Dr.  
21 Long followed Facebook's own internal guidelines to notify Facebook of the  
22 hacking and copyright infringements several dozen times and Facebook  
23 failed to stop the unauthorized access and restore proper page  
24 administration for eight days, all of which were "business days," as the  
25 internet is "open" 24/7, 365 days a year.  
26  
27  
28



1           103. 104. In addition to following Facebook’s internal reporting  
2 procedures, Dr. Long diligently notified Facebook of the hacking and  
3 copyright infringements dozens of times through every avenue he could  
4 think of: through email, facsimile, and FedEx overnight mail, with and  
5 without notarized proof of his identity and ownership of the Bandha Yoga  
6 page.  
7

8  
9           104. During the eight days that he was locked out of the Bandha Yoga  
10 page, a business page for which he pays for targeted promotion and  
11 advertising, Dr. Long was repeatedly directed to non-human automated  
12 responders, which he believed to be human, and otherwise effectively  
13 ignored by employees at Facebook who could have properly recognized the  
14 problems and expeditiously solved them.  
15  
16  
17

18           105. But for Facebook’s failure to maintain adequate internal cyber  
19 security systems and mechanisms to prevent and rectify unauthorized  
20 access and copyright infringements, Plaintiffs’ existing and prospective  
21 business relationships would not have been damaged.  
22  
23

24                   **AS AND FOR A FIRST CLAIM FOR RELIEF<sup>1</sup>**  
25

---

26           <sup>1</sup> While the Court’s order only allows amendment of certain Causes of Action,  
27 Plaintiffs respectfully have preserved all previously pleaded Causes of Action so as to  
28 avoid waiver and permit Plaintiffs to argue that such Causes of Action should be  
preserved, either before this Court, or before the Ninth Circuit or if necessary on a  
Petition for a Writ of Certiorari before the United States Supreme Court.

**Copyright Infringement, Against All Defendants**

106. Plaintiffs repeat and re-allege each and every allegation in the foregoing paragraphs as if fully alleged herein.

107. Defendants have infringed Dr. Long's copyrights in the Bandha Yoga page by reproducing and distributing the copyrighted words without authorization, in violation of the Copyright Act, 17 U.S.C. §§ 106 and 501.

108. Defendants' acts of infringement were willful and in disregard of, and/or with indifference to, Plaintiffs' rights.

109. As a direct and proximate cause of Defendants' infringements, Plaintiffs are entitled to damages in an amount to be proven at trial and to Defendants' profits in amounts to be proven at trial, which are not currently ascertainable.

110. Alternatively, Plaintiffs are entitled to the maximum statutory damages of \$150,000 per copyright infringement, or in such other amount as may be proper under 17 U.S.C. §504(c), in an amount to be proven at trial. Plaintiffs are thusly entitled because Defendants' infringements were willful and continued.

111. Plaintiffs are further entitled to attorneys' fees and full costs pursuant to 17 U.S.C. §505.

AS AND FOR A SECOND CLAIM FOR RELIEF

Contributory Copyright Infringement, Against All Defendants

112. Plaintiffs repeat and re-allege each and every allegation in the foregoing paragraphs as if fully alleged herein.

113. Defendants have infringed Plaintiffs' copyrights in the Bandha Yoga materials, including Dr. Long's exclusive rights of reproduction, adaptation, and distribution by means of digital distribution through Facebook, in violation of 17 U.S.C. §§ 106 and 501.

114. On information and belief, because the Bandha Yoga Page was hacked, an authorized user or users disseminated Plaintiffs' copyrighted material tainted with the hackers' malware, exposing millions of users to both the aforesaid infringing content and malware.

115. The Dorset Defendants have each knowingly and materially contributed to unauthorized reproductions, adaptations, and distribution of the copyrighted works by unauthorized users, and have each contributed to, or caused, the infringement of Plaintiff's copyrights.

116. Facebook knowingly and materially contributed to unauthorized reproductions, adaptations, and distribution of the copyrighted works by unauthorized users, have contributed to, or caused, the infringement of Plaintiff's copyrights.

1           117. All Defendants' acts of infringement were willful, in disregard of,  
2 and with indifference to, Plaintiffs' rights.  
3

4           118. As a direct and proximate result of the infringements by  
5 Defendants, Plaintiffs are entitled to damages in an amount to be proven at  
6 trial and to Defendants' profits in amount to be proven at trial, which are  
7 not currently ascertainable.  
8

9           119. Alternatively, Plaintiffs are entitled to the maximum statutory  
10 damages of \$150,000 for each copyright infringed, or in such other amount  
11 as may be property under 17 U.S.C. §504(c), in an amount to be proven at  
12 trial. Plaintiffs are thusly entitled because Defendants' acts of infringement  
13 were willful.  
14

15           120. Plaintiffs are further entitled to attorneys' fees and full costs  
16 pursuant to 17 U.S.C. §505.  
17

18  
19                   **AS AND FOR A THIRD CLAIM FOR RELIEF**  
20                   **Vicarious Copyright Infringement, Against All Defendants**  
21

22           121. Plaintiffs repeat and re-allege each and every allegation in the  
23 foregoing paragraphs as if fully alleged herein .  
24

25           122. The Dorset Defendants have infringed Plaintiffs' copyrights in  
26 the Bandha Yoga materials, including reproduction, adaptation, and  
27 distribution of such infringing materials.  
28

1           123. Facebook’s failure to act to prevent continued infringement after  
2 receiving notice of the direct infringement by the Dorset Defendants, and  
3 Facebook’s continued reproduction, adaptation, and distribution of the  
4 infringing materials on its servers violate Plaintiffs’ exclusive rights of  
5 reproduction, adaptation, and distribution by means of digital distribution  
6 through Facebook, violated 17 U.S.C. §§ 106 and 501.  
7

8  
9           124. All Defendants have knowingly and materially contributed to  
10 unauthorized reproductions, adaptations, and distribution of the  
11 copyrighted works; Facebook so contributed to the infringement of Plaintiffs’  
12 copyrights by failing and refusing to expeditiously limit, prevent, remove, or  
13 curtail such infringing activity despite Dr. Long’s repeated notices.  
14  
15

16           125. Facebook refused or was unable to timely restore administrative  
17 access to Dr. Long after his repeated notices of the hacking, thereby  
18 interfering with Plaintiffs’ ability to take necessary measures to remove the  
19 infringing material.  
20  
21

22           126. On information and belief, the Dorset Defendants derived a  
23 direct financial benefit from this infringement, including, but not limited to,  
24 advertising, other revenue, or other financial benefits from the increased  
25 user traffic arising from the “draw” of Plaintiffs’ copyrighted materials.  
26  
27  
28

1           127. The Defendants' acts of infringement were willful and in  
2           disregard of, and with indifference to, Plaintiffs' rights.  
3

4           128. As a direct and proximate result of the infringements by the  
5           Dorset Defendants, Plaintiffs are entitled to damages in an amount to be  
6           proven at trial and to Defendants' profits in amounts to be proven at trial,  
7           which are not currently ascertainable.  
8

9           129. Alternatively, Plaintiffs are entitled to the maximum statutory  
10          damages of \$150,000 for each copyright infringed, or in such other amount  
11          as may be proper under 17 U.S.C. §504(c), in an amount to be proven at  
12          trial. Plaintiffs are thusly entitled because Defendants' acts of infringement  
13          were willful and continued.  
14

15          130. Plaintiffs are further entitled to attorneys' fees and full costs  
16          pursuant to 17 U.S.C. §505.  
17

18  
19          **AS AND FOR A FOURTH CLAIM FOR RELIEF Violation of the Computer**  
20          **Fraud and Abuse Act (CFAA), Against the Dorset Defendants**

21          131. Plaintiffs repeat and re-allege each and every allegation in the  
22          foregoing paragraphs as if fully alleged herein Paragraphs 1 – X are hereby  
23          realleged.  
24

25          132. The Dorset Defendants knowingly caused the transmission of a  
26          program, information, code, or command, and as a result of such conduct,  
27  
28

1 intentionally caused damage without authorization to one or more protected  
2 computers in violation of 18 U.S.C. §1030(a)(4).  
3

4 133. At all relevant times, the Facebook servers hosting the Bandha  
5 Yoga Page were protected computers pursuant to 18 U.S.C. §1030(e)(2)(B).  
6

7 134. Beginning on or about May 24, 2015, and ending on or about  
8 June 3, 2015, the Dorset Defendants intentionally accessed the Facebook  
9 server(s) hosting the Bandha Yoga Page without authorization, or exceeding  
10 authorized access, and thereby obtained information in violation of 18  
11 U.S.C. §1030(a)(2).  
12

13 135. In violation of 18 U.S.C. §1030(a)(4), the Dorset Defendants  
14 obtained the aforesaid access knowingly, with intent to defraud; by means of  
15 such conduct, they furthered the intended fraud by obtaining things of  
16 value, including access to Plaintiffs' existing and prospective customers, the  
17 use of Plaintiffs' copyrighted materials, and other value, in amounts to be  
18 proven at trial.  
19  
20  
21

22 136. As a result of the acts of the Dorset Defendants, Plaintiffs have  
23 suffered damages in excess of \$5,000 within a one-year period, and on  
24 information and belief, damages were caused to 10 or more protected  
25 computers.  
26  
27  
28

1           137. As a direct and proximate result of the Dorset Defendants'  
2 wrongful conduct, Plaintiffs have suffered losses, including: the cost of  
3 responding to the offense; conducting a damage assessment; restoring the  
4 data, program, system, or information to its condition prior to the offense;  
5 revenue losses; costs incurred; and other consequential damages incurred  
6 due to interruption of service.  
7

8  
9           138. Plaintiffs are entitled to economic damages pursuant to 18 U.S.C.  
10 §1030(g) in amounts to be proven at trial.  
11

12                           **AS AND FOR A FIFTH CLAIM FOR RELIEF**  
13                           **Violation of the Stored Communications Act (SCA), Against the Dorset**  
14                           **Defendants**

15           139. Plaintiffs repeat and re-allege each and every allegation in the  
16 foregoing paragraphs as if fully alleged herein .  
17

18           140. Pursuant to 18 U.S.C. §2701(a), with certain exceptions not  
19 relevant here, it is unlawful to (1) intentionally access without authorization  
20 a facility through which an electronic communication service is provided; or  
21 (2) intentionally exceed an authorization to access that facility; and thereby  
22 obtain, alter, or prevent authorized access to a wire or electronic  
23 communication while it is in electronic storage in such system.  
24

25           141. During the eight-day time frame in which Dr. Long was locked  
26 out of the Bandha Yoga page, the Dorset Defendants (1) continuously and  
27  
28



1 intentionally accessed the Bandha Yoga page, (2) continuously accessed and  
2 removed comments made by users of the Bandha Yoga page which would  
3 alert visitors to the fact that the page had been hacked, that the person in  
4 charge of the page was not the Bandha Yoga page's authorized  
5 administrator, Dr. Long, and that downloading images would result in the  
6 installation of malware against the user's wishes.

7  
8  
9  
10 142. During the eight-day time frame in which Dr. Long was locked  
11 out of the Bandha Yoga page, the Dorset Defendants continuously and  
12 intentionally obtained, and deleted or altered, electronic communications  
13 stored on the Bandha Yoga page and prevented authorized access by Dr.  
14 Long to electronic communications on that page.

15  
16  
17 143. The violations of the SCA by the Dorset Defendants were  
18 committed with a knowing and intentional state of mind.

19  
20 144. As a result of the foregoing, pursuant to 18 U.S.C. §2707,  
21 Plaintiffs are entitled to the actual damages suffered by the Plaintiffs and  
22 any profits made by the Dorset Defendants as a result of the violation, in  
23 amounts to be proven at trial, in addition to reasonable costs and attorneys'  
24 fees, and punitive damages against the Dorset Defendants.

25  
26 145. In no case are Plaintiffs entitled to less than \$1,000 for each such  
27 violation, the costs of the action, and reasonable attorneys' fees.  
28

AS AND FOR A SIXTH CLAIM FOR RELIEF

Violation of California Penal Code § 502, Against the Dorset Defendants

146. Plaintiffs repeat and re-allege each and every allegation in the foregoing paragraphs as if fully alleged herein.

147. In violation of California Penal Code §502(c), the Dorset Defendants:

- (1) Knowingly access and without permission altered, damaged, deleted, destroyed, and otherwise used data, computer, computer system, or computer network, in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data;
- (2) Knowingly and without permission used or caused to be used computer services;
- (3) Knowingly accessed and without permission added, altered, damages, deleted, and destroyed data which resides or exists internal or external to a computer, computer system, or computer network;
- (4) Knowingly and without permission disrupted or caused the disruption of computer services or denied or caused the denial of

1 computer services to an authorized user of a computer, computer  
2 system, or computer network;

3  
4 (5) Knowingly introduced a computer contaminant into  
5 computers, computer systems, or computer networks;

6  
7 (6) Knowingly and without permission used the internet  
8 domain name or profile of another individual, corporation, or  
9 entity in connection with the sending of one or more electronic  
10 mail messages or posts and thereby damaged or caused damage to a  
11 computer, computer data, computer system, or computer  
12 network;

13  
14  
15 (7) Knowingly and without permission accessed or caused to be  
16 accessed any computer, computer system, or computer network.  
17

18 148. As a result of the foregoing, Plaintiffs have suffered losses  
19 including the cost of responding to the offense, restoring the data, program,  
20 system, or information to its condition prior to the offense, revenue lost, cost  
21 incurred, and other consequential damages incurred because of interruption  
22 of service.  
23  
24

25 149. Plaintiffs are entitled to damages pursuant to CA Penal Code  
26 §502(e) in amounts to be proven at trial.  
27  
28

1           150. Plaintiffs are entitled to punitive damages against the Dorset  
2 Defendants because the Dorset Defendants have been guilty of oppression,  
3 fraud, or malice, as defined in CA Civil Code §3294(c).  
4

5  
6  
7                   **AS AND FOR A SEVENTH CLAIM FOR RELIEF**  
8           **Tortious Interference with Contractual Advantage, Against the Dorset**  
9                   **Defendants**

10           151. Plaintiffs repeat and re-allege each and every allegation in the  
11 foregoing paragraphs as if fully alleged herein.  
12

13           152. Plaintiffs had valuable existing business relationships with many  
14 of the persons who visited the Bandha Yoga page during the period when  
15 the Dorset Defendants hijacked and controlled the Bandha Yoga page.  
16

17           153. On information and belief, the Dorset Defendants were aware  
18 that those relationships existed, intended to disturb them, and did disturb  
19 Plaintiffs' then-existing relationships with some of those persons, which  
20 caused damage to Plaintiffs.  
21

22           154. As a result of the foregoing, Plaintiffs are entitled to damages in  
23 amounts to be proven at trial.  
24

25                   **AS AND FOR AN EIGHTH CLAIM FOR RELIEF**  
26           **Tortious Interference with Prospective Advantage, Against the Dorset**  
27                   **Defendants**  
28

1  
2 155. Plaintiffs repeat and re-allege each and every allegation in the  
3 foregoing paragraphs as if fully alleged herein.

4  
5 156. Plaintiffs had valuable potential business relationships with  
6 many of the persons who visited the Bandha Yoga page during the period  
7 when the Dorset Defendants hijacked and controlled the Bandha Yoga page.  
8

9 157. On information and belief, the Dorset Defendants were aware of  
10 those prospective relationships, intended to disturb them, and did disturb  
11 Plaintiffs' then-existing relationships with some of those persons by using  
12 unlawful and otherwise improper means, causing damage to Plaintiffs.  
13

14 158. As a result of the foregoing, Plaintiffs are entitled to damages in  
15 amounts to be proven at trial that are not currently ascertainable.  
16

17 **AS AND FOR A NINTH CLAIM FOR RELIEF**  
18 **Conversion, Against the Dorset Defendants**  
19

20 159. Plaintiffs repeat and re-allege each and every allegation in the  
21 foregoing paragraphs as if fully alleged herein.  
22

23 160. Plaintiffs had valuable property rights in the Bandha Yoga page  
24 and in Plaintiffs' intellectual property.  
25

26 161. The Dorset Defendants used and disposed of Plaintiff's property  
27 in a manner inconsistent with Plaintiffs' property rights.  
28

1           162. As a result of the foregoing, Plaintiffs are entitled to damages in  
2 amounts to be proven at trial that are not currently ascertainable.  
3

4  
5                   **AS AND FOR A TENTH CLAIM FOR RELIEF**  
6                   **Civil Conspiracy, Against the Dorset Defendants**  
7

8           163. Plaintiffs repeat and re-allege each and every allegation in the  
9 foregoing paragraphs as if fully alleged herein.  
10

11           164. The Dorset Defendants formed and operated the conspiracy to  
12 commit copyright infringement and conversion; to violate the CFAA, the  
13 SCA, California Penal Code §502; and to tortuously interfere with Plaintiffs'  
14 contractual and prospective advantages.  
15

16           165. The Dorset Defendants engaged in wrongful conduct in  
17 furtherance of the conspiracy.  
18

19           166. Plaintiffs have suffered damages arising from the Dorset  
20 Defendants' wrongful conduct.  
21

22           167. As a result of the foregoing, Plaintiffs are entitled to damages in  
23 amounts to be proven at trial that are not currently ascertainable.  
24

25                   **AS AND FOR AN ELEVENTH CLAIM FOR RELIEF**  
26                   **Negligence, Against Facebook**

27           168. Plaintiffs repeat and re-allege each and every allegation in the  
28 foregoing paragraphs as if fully alleged herein.

1           169. Facebook owes a duty of care to business pages that engage in a  
2 transactional business relationship with Facebook by virtue of paying  
3 Facebook for targeted advertising to users. Facebook's duty of care includes  
4 maintaining adequate internal cyber security systems and mechanisms to  
5 prevent hackers from obtaining control of Facebook business pages, or,  
6 alternatively, to expeditiously stop unauthorized access and restore proper  
7 page administration, and to expeditiously remove copyright-infringing  
8 material.  
9

10  
11  
12           170. Facebook breached its duty of care with respect to Plaintiffs by  
13 enabling the Dorset Defendants to access the Bandha Yoga page without Dr.  
14 Long's authorization, by failing to maintain properly programed automated  
15 responders that can identify complaint categories and refer them to the  
16 appropriate departments, and by failing to expeditiously restore proper page  
17 administration and remove infringing material by taking eight days to do so,  
18 despite dozens of notices from Dr. Long.  
19  
20  
21

22           171. Plaintiffs' existing and prospective business relationships and  
23 professional reputations have been irreparably harmed by association of the  
24 Bandha Yoga page with malicious malware, to which approximately 3.5  
25 million individual Facebook users may have been exposed.  
26  
27  
28

1           172. As a direct and proximate result of Facebook's negligence,  
2  
3 Plaintiffs are entitled to damages in an amount to be proven at trial that are  
4 not currently ascertainable.

5  
6           **AS AND FOR A TWELFTH CLAIM FOR RELIEF Aiding and Abetting,**  
7                                   **Against Facebook**

8           173. Plaintiffs repeat and re-allege each and every allegation in the  
9 foregoing paragraphs as if fully alleged herein .

10           174. Knowingly, or with willful blindness, Facebook substantially  
11 assisted the Dorset Defendants in committing the common law torts alleged  
12 against the Dorset Defendants, through their inaction.

13           175. As a result of the foregoing, Facebook is jointly and severally  
14 liable for damages caused by those torts, to the same extent as the Dorset  
15 Defendants.  
16  
17

18  
19           **AS AND FOR A THIRTEENTH CLAIM FOR RELIEF**  
20                                   **Breach of Contract, Against Facebook**

21           176. Plaintiffs repeat and re-allege each and every allegation in the  
22 foregoing paragraphs as if fully alleged herein.

23           177. Plaintiffs and Facebook entered into a contract wherein Plaintiffs  
24 paid Facebook for targeted promotion and advertising of the Bandha Yoga  
25 page. Facebook was obligated to comply with its own TOS, including the  
26 provision in Section 1, entitled "Our Services," which provides that they  
27  
28



1 employ dedicated teams about the world and develop advanced technical  
2 systems to detect misuse of their products, harmful conduct toward others,  
3 and situations where they may be able to help support to protect their  
4 community. The TOS provide that, if Facebook learns of content or conduct  
5 like this, they will take appropriate action, such as offering help, removing  
6 content, blocking access to certain features, disabling accounts, or contacting  
7 law enforcement.  
8  
9  
10

11 178. Plaintiffs paid Facebook the agreed-upon fee, complying with  
12 their obligation under the contract.  
13

14 179. Facebook failed to abide by its TOS. They had actual knowledge  
15 of conduct entailing misuse of their products that was harmful to Plaintiffs,  
16 but Facebook's eventual corrective actions were rendered inappropriate by  
17 the ineffective automatic responders, failure to correctly direct Dr. Long's  
18 complaints, failure to correctly identify the wrongful conduct, failure to  
19 expeditiously remove or block access to infringing materials, and failure to  
20 promptly restore Dr. Long as the Bandha Yoga page's administrator.  
21  
22

23 180. Plaintiffs were harmed and Facebook's breach of contract was a  
24 substantial factor in causing said harm.  
25  
26  
27  
28

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

181. As to FIRST, SECOND AND THIRD CLAIMS FOR RELIEF, against all Defendants, for damages in an amount to be proven at trial and Defendants' profits in amounts to be proven at trial, which are not currently ascertainable. Alternatively, for statutory damages of \$150,000 per copyright infringes or in such other amount as may be proper under 17 U.S.C. 504(c), an amount to be proven at trial, and in either event for costs and reasonable attorneys' fees of this action;

182. As to the FOURTH CLAIM FOR RELIEF, against the Dorset Defendants, economic damages pursuant to the CFAA, in amounts to be proven at trial.

183. As to the FIFTH CLAIM FOR RELIEF, against the Dorset Defendants, actual damages suffered by Plaintiffs pursuant to the SCA, in amounts to be proven at trial, and reasonable costs, attorneys' fees, and punitive damages.

184. As to the SIXTH CLAIM FOR RELIEF, against the Dorset Defendants, for damages suffered by Plaintiffs in amounts to be proven at trial, reasonable costs and attorneys' fees, and punitive damages.

1 185. As to the SEVENTH, EIGHTH, NINTH and TENTH CLAIMS  
2 FOR RELIEF, against the Dorset Defendants, for damages suffered by  
3 Plaintiffs in amounts to be proven at trial, and reasonable costs and  
4 attorneys' fees.  
5

6 186. As to the ELEVENTH, TWELFTH AND THIRTEENTH  
7 CLAIMS FOR RELIEF, against Facebook, for damages in amounts to be  
8 proven at trial.  
9  
10

11 187. Against all Defendants, for pre-judgment interest, costs, and for  
12 such other and further relief as this Court deems just and appropriate.  
13

14 Dated: New York, N.Y.  
15 July 1, 2021

Respectfully Submitted,  
FOLKENFLIK & MCGERITY LLP  
By: /s/ Max Folkenflik

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